

With regard to U.S. Patent No. 5,961,804 (hereinafter '804), the double patenting rejection is traversed. The claims of the present application are patentably distinct from those of '804. The claims of '804 are directed to electrophoretic or dielectrophoretic material comprising a carrier and a dispersion of microcapsules therein, the microcapsules each comprising: a plurality of particles at least some of the particles having an electrophoretic mobility; means for enhancing the *reflectivity* of at least some of the particles; and a dyed fluid ('804, claim 1 - emphasis added). The means for enhancing reflectivity may be a metal shell around the particles (claims 3 and 4), metal flakes embedded within the particles (claim 6), glass retroreflector spheres embedded within the particles (claim 7), or an outer clear capsule surrounding each particle (claim 8). Claim 36 of '804 is similar to claim 1, except that it requires that the particles have two different electrophoretic mobilities, while claim 41 is directed to a material according to claim 36 wherein the means for enhancing reflectivity is glass retroreflector spheres embedded within the particles.

Claims 1, 2, 4-6, 14-18 and 25 of the present application are directed to an encapsulated electrophoretic display comprising one or more species of particles, each having a distinct electrophoretic mobility, wherein at least one of the species of particles comprises a retroreflective corner cube, the display being capable of displaying multiple optical states through electrophoretic movement of the particles. Retroreflective corner cubes are not disclosed in '804. Furthermore, as already noted, the aforementioned claims of the present application are directed to displays in which the particles comprise a retroreflective corner cube, whereas the cited claims of '804 are directed to, *inter alia*, electrophoretic materials in which glass retroreflector spheres are *embedded* within the particles. The two types of electrophoretic particles are quite different, and hence the claims are patentably distinct. Furthermore, contrary to the sentence bridging pages 2 and 3 of the Office Action, it would not have possible to present claims corresponding to present claims 1, 2, 4-6, 14-18 and 25 in the application which matured into the '804 patent, since that application did not disclose any display using electrophoretic particles comprising reflective corner cubes.

Present claims 26-31 are directed to an electrophoretic display comprising first and second species of particles disposed in multiple cavities in a polymeric matrix. This type of polymer-dispersed display is not described or claimed in '804, the claims of which all require a dispersion of microcapsules in a carrier. Finally, present claims 32-38 are directed to an electrophoretic display comprising electrophoretic particles in a suspending fluid and a retroreflective substrate, the particles being movable between a first position in which the substrate can at least partially reflect incident light, and a second position in which the substrate is at least partially prevented from reflecting incident light. No such retroreflective substrate, the reflectivity of which is controlled by the electrophoretic movement of particles is described or claimed in '804. Hence, claims 26-38 are patentably distinct from the claims of '804, and it would not have possible to present claims corresponding to present claims 26-38 in the application which matured into the '804 patent.

For the foregoing reasons, the double patenting rejection based upon U.S. Patent No. 5,961,804 is unjustified and should be withdrawn.

Reconsideration and allowance of all claims is respectfully requested.

An Information Disclosure Statement is being filed herewith. Also, since the shortened statutory period for responding to the Office Action expired February 28, a Petition for a one-month extension of this period is also filed herewith.

Respectfully submitted



David J. Cole
Registration No. 29629

E INK Corporation
733 Concord Avenue
Cambridge MA 02138

Telephone (617) 499-6069
Fax (617) 499-6200
E-mail dcole@eink.com